



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

AUDITS DIVISION

IN THE MATTER OF THE DEFERRED BALANCES)
AUDIT OF ATLANTIC CITY ELECTRIC COMPANY)
PHASE II: AUGUST 2002- JULY 2003)

ORDER

DOCKET NO. EX02060363
EA02060364

(SERVICE LIST ATTACHED)

BY THE BOARD:

Several related matters are currently before the Board. The Division of Ratepayer Advocate's ("RPA") letter motion of December 7, 2005 seeking a full evidentiary hearing of the Atlantic City Electric Company ("ACE") Phase II Deferred Balances Audit and production of ACE's responses to Mitchell & Titus' ("M&T" or "Auditor") and Board Staff's discovery requests needs to be addressed. The RPA's letter request of December 20, 2005 propounding discovery on Board Staff requesting audit verification procedures, information, utility work papers and supporting documentation relating to the Phase II audit also requires resolution. The RPA also requested, by letter of December 20, 2005, propounding discovery on ACE requesting information, calculations, supporting documentation, etc. relating to the Phase II audit. Finally, the RPA's letter motion of February 27, 2006 asking the Board to compel ACE to fully respond, in a timely manner, to the RPA's previously propounded discovery requests will be also be addressed.

Background/Procedural History

On July 29, 2002, the Board issued a Request for Proposal to secure the services of an independent auditor to conduct audits of New Jersey's four electric utilities' ("Utilities") restructuring-related deferred balances. On October 2, 2002, Mitchell & Titus, LLP and Barrington-Wellesley Group, Inc. subcontractor, were engaged to perform the audits for ACE, JCP&L and PSEG.

The audit scope covered the period of August 1, 1999 through July 31, 2003 (the "Transition Period") and the impact of transactions therein on the deferred balances of the Utilities. The audit was conducted in two phases. The Phase I Audit examined deferred balances from August 1, 1999 through July 31, 2002. The Phase II Audit examined deferred balances from August 1, 2002 through July 31, 2003.

The objective of the audits was to provide the Board with a certified audit opinion as to whether the Utilities' deferred balances, as of July 31, 2003, were accurately calculated, correctly recorded, fairly stated in all material respects, and in compliance with Board Orders. The Audits also included a prudence review of the Utilities' Basic Generation Service procurement practices for the first three years of the Transition Period, for those Utilities that had divested their generation assets. The audit also examined the Utilities' mitigation efforts, consistent with applicable laws, with respect to the above-market Non-Utility Generation contract costs during the transition period.

Additionally, for the Phase I proceeding, the Board authorized full evidentiary hearings to address all accounting and prudence related issues. The RPA participated fully in the Phase I hearings. The Board did not contemplate or authorize evidentiary hearings for Phase II.

At its December 2, 2005 agenda meeting, the Board acknowledged receipt of the ACE Phase II Deferred Balances Audit Report and released said report for public comment. By Secretary's Letter dated December 5, 2005, interested parties were directed to submit initial comments to the reports by January 10, 2006 and reply comments by January 24, 2006.

On December 7, 2005, RPA filed a letter motion seeking full evidentiary hearings and requested that the Board require ACE to provide the RPA with complete copies of ACE's responses to M&T's discovery requests, as well as any responses to Board Staff's discovery requests in the referenced matters.

On December 20, 2005, the RPA propounded discovery on ACE seeking additional information relative to specific items in the Phase II Audit Report.

Also on December 20 2005, RPA propounded discovery on Board Staff requesting audit verification procedures, information, utility work papers and supporting documentation relating to the Phase II audit.

In a letter to the Board dated December 28, 2005, ACE objected to RPA's request for hearings and asked that the Board reject said motion. Ace indicated that RPA participated in the Phase I hearings, new factual issues and concerns have not been raised in the Phase II audit and that RPA seems intent on reviewing and critiquing the Phase II audit process. ACE also indicated it would not respond to RPA's previously propounded discovery requests until ordered to do so by the Board.

On January 30, 2006, the RPA wrote to counsel for ACE requesting that they provide responses to discovery propounded on December 20, 2005.

On February 27, 2006, the RPA filed a motion seeking the Board to compel ACE to provide the discovery sought.

Staff recommends that the Board:

Order ACE to provide to RPA by September 7, 2006, copies of ACE's responses to M&T's and Staff's discovery requests and to respond to RPA's previously propounded discovery requests. Staff recommends that RPA then be given until November 2, 2006 to review the responses and file comments with the Board and that ACE be given until November 30, 2006 to file reply comments.


2. Hold the RPA's motion for full evidentiary hearings open until Staff has received and reviewed the aforementioned comments and reply comments, at which time the motion will be brought before the Board for consideration.
3. Deny RPA's letter request of December 20, 2005 propounding discovery on Board Staff requesting audit verification procedures, information, utility work papers and supporting documentation relating to the Phase II audit. Staff believes this discovery request should be denied because it is tantamount to an "audit of the audit". The responsibility for the integrity of audit processes, and the results thereof, rests solely with the Board and its Staff.


The Board HEREBY ORDERS ACE to provide to the RPA by September 7, 2006, copies of ACE's responses to M & T's and Staff's discovery requests and to respond to RPA's previously propounded discovery requests. The RPA will then be given until November 2, 2006 to review the responses and file comments with the Board and ACE will be given until November 30, 2006 to file reply comments. The Board HEREBY DIRECTS that the RPA's motion for full evidentiary hearings be held open until Staff has received and reviewed the comments and reply comments, at which time the motion will be brought before the Board for consideration.

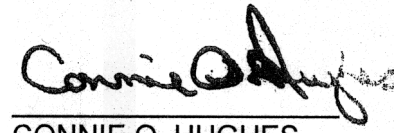
The Board HEREBY DENIES the RPA's request of December 20, 2005 propounding discovery on Board Staff requesting audit verification procedures, information, utility work papers and supporting documentation relating to the Phase II audit. There will be no "audit of the audit". Responsibility for the integrity of the audit processes, and the results thereof, rests solely with the Board of Public Utilities and its Staff.

DATED: 8/18/06

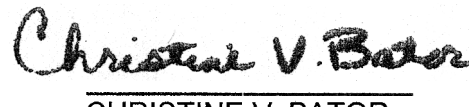
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

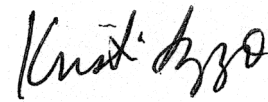

FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

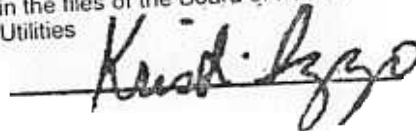

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



**I/M/O the Deferred Balances Audit of
Atlantic City Electric Company Phase II
BPU Docket No. EX02060363 and
EA02060364**

Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Mark Beyer
Office of the Economist
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Nusha Wyner
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Dennis Moran, Assistant Director
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Robert Glowacki
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Alice Bator
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Jacqueline Galka
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Robert Catona
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Robert Schultheis
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Walter P. Szymanski, Director
Division of Audits
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Elise Goldblat, SDAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Anne Marie Shatto, DAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Seema M. Singh, Esq.
Ratepayer Advocate
Division of the Ratepayer Advocate
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07102

Ami Morita, Esq.
Division of the Ratepayer Advocate
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07102

Diane Schulze, Esq.
Division of the Ratepayer Advocate
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07102

Kurt S. Lewandowski, Esq.
Division of the Ratepayer Advocate
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07102

Andrea Crane
The Columbia Group, Inc.
38 C Grove Street
Ridgefield, CT 06877

Roger Pedersen
Project Manager- Retail Access
Conectiv
5100 Harding Highway
Suite 155
Mays Landing, NJ 08330

Mark Mucci, Esq.
Saul Ewing
One Riverfront Plaza
Newark, NJ 07012